

## Message Text

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ACTION ORM-02

INFO OCT-01 IO-13 ISO-00 DHA-02 AF-08 ARA-10 EA-09 EUR-12  
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FM USMISSION GENEVA  
TO SECSTATE WASHDC 4555  
INFO USUN NEW YORK 4005

UNCLAS GENEVA 0257

E.O. 11652: NA  
TAGS: SREF, UNHCR  
SUBJ: TERRITORIAL ASYLUM CONFERENCE, 2ND MEETING OF COMMITTEE  
OF THE WHOLE, JANUARY 14, 1977

SUMMARY. COMMITTEE OF THE WHOLE REVIEWED THREE TEXTS OF ARTICLE  
1 BUT DID NOT REACH DECISION. MEETING WAS MARKED BY EFFORTS OF  
EASTERN EUROPEAN COUNTRIES TO DELAY PROCEEDINGS WHICH U.S.  
RESISTED. END SUMMARY.

1. CHAIRMAN (NASCIMENTO Y SILVA - BRAZIL) INDICATED HIS DETER-  
MINATION THAT COMMITTEE REPORT OUT A DRAFT TREATY. INDICATED  
WILLINGNESS TO USE NIGHT MEETINGS IF NECESSARY. COMMENT: THIS  
REFLECTED WIDESPREAD ASSUMPTION THAT EASTERN EUROPEAN GROUP,  
HAVING CONFIRMED THAT IT DOES NOT WANT A TREATY, WILL USE DELAY-  
ING TACTICS TO PREVENT IT.

2. ARTICLE 1. HOLY SEE MADE LONG GENERAL STATEMENT ABOUT THE  
CHURCH'S HUMANITARIAN ACTIVITIES ON BEHALF OF REFUGEES. SPECI-  
FICALLY RECOMMENDED ADDITION OF PROVISION, EITHER IN ARTICLE 1  
OR ELSEWHERE, THAT ASYLUM SHOULD BE CONDUCTED IN MANNER TO REUNITE  
SEPARATED FAMILIES. DURING DEBATE THE "FAMILY UNIT" PROPOSAL  
WAS SUPPORTED BY ITALY, UK, COLOMBIA AND ARGENTINA, AND OPPOSED BY  
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NO ONE. USDEL ASSUMES DEPT WISHES US TO SUPPORT REUNIFICATION  
OF SEPARATED FAMILIES AS LONG AS THE TERM "FAMILY" IS GIVEN A  
LIMITED MEANING, E.G., SPOUSE AND MINOR CHILDREN.

3. U.S. EXPLAINED ITS PROPOSAL FOR REVERSAL OF SEQUENCE OF ARTICLES  
1 AND 2, AS CONTEMPLATED IN POSITION PAPER, AND SUGGESTED  
PROPOSAL MIGHT BE CONSIDERED BY DRAFTING COMMITTEE.

4. BYELORUSSIA EMBARKED ON LONG, GENERAL, ALMOST PHILOSOPHICAL, STATEMENT ABOUT ASYLUM. TO HELP THE COMMITTEE AVOID ACQUIRING BAD HABITS, U.S. INTERVENED ON A POINT OF ORDER, NOTING THAT THE MEMORANDUM ON WORK METHODS ADOPTED BY THE COMMITTEE ON JANUARY 15 PROVIDED THAT THERE WOULD BE NO GENERAL DEBATE, AND THAT THIS COMMITTEE WOULD PROCEED AT ONCE TO A DISCUSSION OF PROPOSALS (A/CONF.78/3, PARA 9). USSR INQUIRED WHY THE U.S. HAD NOT RAISED THE SAME POINT OF ORDER WHEN HOLY SEE MADE ITS STATEMENT. U.S. DID NOT RESPOND. CHAIRMAN RULED THAT THE U.S. POSITION WAS CORRECT, AND WOULD BE APPLIED TO THE DISCUSSION OF SUBSEQUENT ARTICLES, BUT THAT SINCE ARTICLE 1 IS THE BASIC ARTICLE, HE WAS INCLINED TO "STRETCH THE RULES A LITTLE BIT AND ALLOW BROADER STATEMENTS." BYELORUSSIA RESUMED ITS STATEMENT IN A CLEARLY ACCELERATED MANNER, TO THE GENERAL EFFECT THAT THE CONVENTION IS NOT NECESSARY. SUBSEQUENTLY, POLAND SIMILARLY STATED THAT CONVENTION NOT NECESSARY, BUT IN MORE MODERATE TERMS. COMMENT: WE BELIEVE OUR INTERVENTION STRENGTHENED NASCIMENTO'S HAND IN CONTROLLING DILATORY TACTICS. HE THANKED US PERSONALLY AFTER THE MEETING. WE WILL DO IT AGAIN IF NECESSARY.

5. THREE PROPOSED TEXTS OF ARTICLE 1 ARE BEFORE THE COMMITTEE:

(A) GERMAN TEXT GIVES PERSON BEING SUBJECTED TO PERSECUTION THE LEGAL RIGHT, REPEAT RIGHT, TO CLAIM ASYLUM (A/CONF.78/7 AT 2). THIS CORRESPONDS TO THE LEGAL RIGHT GRANTED ASYLEES BY THE CONSTITUTION OF THE FRG, WHICH PERMITS ITS ENFORCEMENT IN GERMAN COURTS.

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(B) GROUP OF EXPERTS TEXT RECOGNIZES THE SOVEREIGN RIGHT OF A STATE TO GRANT ASYLUM TO PERSECUTEES AND OBLIGATES A SIGNATORY STATE TO USE ITS BEST ENDEAVORS TO DO SO (A/10177, ANNEX).

(C) TEXTS BY ARGENTINA (A/CONF.78/C.1/L.1) AND CUBA (L.3), WHICH WE UNDERSTAND WILL BE COMBINED, MERELY ASSERT THE SOVEREIGN RIGHT OF A STATE TO GRANT ASYLUM.

6. IN GENERAL DISCUSSION NO ONE SUPPORTED THE GERMAN TEXT EXCEPT GERMANY; AUSTRALIA OPPOSED IT AS "TOO STRONG." (U.S. POSITION FOLLOWS.) EXPERTS' TEXT SUPPORTED BY INDONESIA, GUATEMALA, GHANA, SWITZERLAND, UK, U.S., SPAIN, EQUADOR, AUSTRALIA, PERU AND SENEGAL. ARGENTINA/CUBA TEXT SUPPORTED BY ARGENTINA AND CUBA, PLUS TURKEY.

7. U.S. STATEMENT ON TEXTS WAS PRECEDED BY VERY GOOD SWISS STATEMENT AND FOLLOWED, SOMEWHAT LATER, BY VERY GOOD AUSTRALIAN STATEMENT. ESSENCE OF U.S. STATEMENT WAS AS FOLLOWS:

(A) ARGENTINA AND CUBAN PROPOSALS MERELY STATE EXISTING LAW.

THEY DO NOT ADVANCE THE CUSE OF PROVIDING ASYLUM TO THE PERSECUTEES. IF THIS IS ALL THAT IS TO BE ACCOMPLISHED WE DO NOT NEED A CONVENTION. COMMENT: COUNTER ARGUMENT COULD HAVE BEEN MADE REGARDING THE UTILITY OF CONVENTION IN THESE CIRCUMSTANCES, BUT WAS NOT.

(B) GERMAN TEXT IS LAUDABLE, BUT IT IS UNLIKELY THAT A CONVENTION CONTAINING IT COULD BE RATIFIED BY ENOUGH STATES TO BRING IT INTO FORCE.

(C) EXPERTS' TEXT IS BEST BALANCE THAT CAN PRESENTLY BE ACHIEVED. IT RECOGNIZES SOVEREIGNTY BUT REQUIRES "BEST ENDEAVORS." THIS IS A STEP FORWARD, THOUGH A SMALL ONE. "BEST ENDEAVORS" IS LEGAL OBLIGATION FOR STATE OF ASYLUM TO ASSUME MORAL RESPONSIBILITY TO TRY TO GRANT ASYLUM.

8. REALIZE THAT DEPT DOES NOT HAVE ALL DOCUMENTATION REFERRED TO UNCLASSIFIED

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ABOVE. PERFORMANCE OF SECRETARIAT HAS BEEN SO LACKLUSTER THAT DOCUMENTS ARE OFTEN AVAILABLE ONLY DURING MEETING AT WHICH THEY ARE DISCUSSED. USDEL WILL POUCH DOCUMENTS TO DEPT AS PROMPTLY AS POSSIBLE.CATTO

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## Message Attributes

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